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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,775	10/01/2003	Kirk Charles Frederickson	67,008-076; S-5656	7918
26096	7590	07/14/2006	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			KIM, CHONG HWA	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,775

Applicant(s)

FREDERICKSON, KIRK CHARLES

Examiner

Chong H. Kim

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7-9,13,19,23,24 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) 8,9,13,19 and 27-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7,23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claim 27 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 23, 2005. As indicated in the Office action made on Feb 13, 2006, claims 8 and 9 have been withdrawn from further consideration as being drawn to a nonelected species. Claim 27 depends from the withdrawn claim 8.

2. Newly amended/submitted claims 13, 19, and 28-30 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- I. Claims 1, 2, 4, 5, 7, 23, and 24, drawn to the subcombination of a force generator (the invention originally claimed), classified in class 74, subclass 87.
- II. Claims 13, 19, and 28-30, drawn to the method and the apparatus of a rotary-wing aircraft having a force generator as a combination, classified in class 244, subclass 17.13.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as

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claimed because the aircraft does not require that the circular members be gears. The subcombination has separate utility such as screens, separating tables, and/or conveyors.

Furthermore, because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13, 19, and 28-30 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 2, 4, 5, 7, 23, and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 recites the newly included phrase “rotationally fixed” in line 2. In the Remarks filed May 15, 2006, with the newly amended claim language, the applicant appears to argue that the first circular member is non-rotatable about the axis A whereas the first circular member 64 of Kanski is rotatable. Although the phrase “rotationally fixed” is confusing and

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indefinite, if the meaning of the phrase indicates that the first circular member is not rotating about the axis A, then such phrase raises new matter issue, since such description is not supported by the specification or the drawings as originally filed.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1, 2, 4, 5, 7, 23, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the newly included phrase “rotationally fixed” in line 2. It is indefinite because it is not clear what it means by “rotationally fixed”. Is the first circular member fixed and rotational? Or, is the first circular member not moving at all (and if so, in relative to what element)?

(Note: for the purpose of complete examination of the application, the phrase “rotationally fixed” has been construed as being rotatable and fixed to the axis A.)

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1, 2, 4, 5, 7, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanski, U.S. Patent 2,309,172.

Kanski shows, in Figs. 1 and 2, a force generator comprising;

a rotationally fixed first circular member 64 defined about a first axis (about shaft 52) to define a first inner diameter circular path, the first circular member having a first radius;

a second circular member 55 defined about a second axis (about element 54) offset from the first axis to define a second radius, the second radius being one-half the first radius, the second circular member movable about the circular path to simultaneously complete one revolution about the second axis and one orbit around the first axis;

a mass 56 located adjacent a circumference of the second circular member to generate a vibratory inertial force;

wherein the vibratory inertial force is a sinusoidal inertial force in a straight line (dsub1);

wherein the path of the mass is two-cusp hypocycloid (dsub1);

wherein the first circular member comprises a ring gear;

wherein the second circular member comprises a planet gear;

further comprising a crank 53 which mounts the second circular member, the crank rotates about the first axis;

further comprising a motor, which drives the crank (as describes on page 4, second column, lines 65-68), having a controller (inherent since all motors have some sort of a switch that controls “on” and/or “off” position of the motor) that drives the motor to control the vibratory inertial force.

Response to Arguments

9. Applicant's arguments filed May 15, 2006 have been fully considered but they are not persuasive. The applicant argues that Kanski fails to show the first circular member being a rotationally fixed. It is the Examiner's view that Kanski shows every element recited in claim 1. As discussed above in the new matter and indefinite rejections, the phrase "rotationally fixed" is confusing. Therefore, the Examiner, as noted above, has taken the liberty to construe the meaning of the phrase to mean rotatable and fixed to the axis.

10. As to the matter of claims 13 and 19, the claims are withdrawn from consideration as being directed to a non-elected invention, as discussed above.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

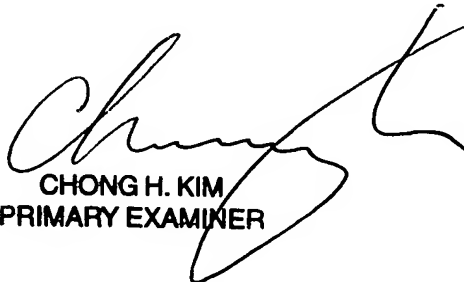
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (571) 272-7108. The examiner can normally be reached on Monday - Friday; 6:00 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

chk
July 11, 2006


CHONG H. KIM
PRIMARY EXAMINER